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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-318

13 **KATHLEEN ANN WHEELER**
2200 Gibraltar Lane
14 Tracy, CA 95377

A C C U S A T I O N

15 Registered Nurse License No. 263695

16 Respondent.

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18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
22 Affairs.

23 2. On or about March 31, 1976, the Board issued Registered Nurse License
24 Number 263695 to Kathleen Ann Wheeler ("Respondent"). The license will expire on
25 November 30, 2009, unless renewed.

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STATUTORY PROVISIONS

3. Business and professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

COST RECOVERY

5. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

6. California Code of Regulations, title 16, section 1442, states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

BACKGROUND INFORMATION

7. On or about July 3, 2003, a 77-year-old female patient, J.C., was admitted to Sutter Tracy Community Hospital ("Sutter") for a scheduled "Right Carotid Endarterectomy" surgery. On that same day, the surgery was performed without complication. Following the surgery, J.C. was placed in the Intensive Care Unit ("ICU") for recovery. On or about July 11, 2003, J.C. was reported to be alert, responsive and doing well. As a result, J.C. was transferred to the telemetry floor for continued recovery. Prior to transferring J.C., ICU notified

Respondent of J.C.'s transfer. Respondent accepted responsibility for J.C.'s care. Upon J.C.'s arrival to the telemetry floor, Respondent failed to perform an assessment of J.C.'s condition/status. A speech therapist who was assisting J.C. noticed that J.C.'s feeding tube had become dislodged. The speech therapist immediately notified Respondent. Approximately 50 minutes after J.C. arrived on the floor, J.C. was transferred back to the ICU where it was discovered that feeding materials had been pumping into J.C.'s lungs, resulting in aspiration pneumonia. On or about July 15, 2003, J.C. expired.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds of unprofessional conduct in that on or about July 11, 2003, while employed as a charge nurse on the telemetry floor at Sutter Tracy Community Hospital, Tracy, California, Respondent was grossly negligent in the following respects:

a. Respondent failed to perform an assessment of J.C. upon her arrival to the telemetry floor.

b. Respondent failed to document/chart any information in J.C.'s medical records during or after the period that J.C. was on the telemetry floor.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

9. Respondent is subject to discipline under Code section 2761(a) on the grounds of unprofessional conduct in that on or about July 11, 2003, while employed as a charge nurse on the telemetry floor at Sutter Tracy Community Hospital, Respondent demonstrated unprofessional conduct as more particularly set forth above in paragraph 8.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 263695, issued to Kathleen Ann Wheeler;

1 2. Ordering Kathleen Ann Wheeler to pay the Board of Registered Nursing
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.

5 DATED: 5/12/08

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8 RUTH ANN TERRY, M.P.H., R.N.
9 Executive Officer
10 Board of Registered Nursing
11 Department of Consumer Affairs
12 State of California
13 Complainant

11 SA2006102300

12 Accusation (kdg) 2/11/08